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Nancy Yorke  
Name

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Sept. 25, 2002  
Date

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicants: Petrukhin, et al.

Serial No.: 09/806,088 - Case No.: 20267P

Filed: July 13, 2001

For: DELTA 6 FATTY DESATURASE

Art Unit:  
1652

Examiner:  
Rao

Assistant Commissioner for Patents  
Washington, DC 20231

RESPONSE TO RESTRICTION REQUIREMENT UNDER 37 C.F.R. §1.143

Sir:

Responsive to the outstanding Office Action dated August 26, 2002, in the above-identified application, having a ONE (1) month period for response which expires September 26, 2002. Applicants respectfully request that the Examiner consider the following provisional election.

REMARKS

The Examiner has advanced a five (5) way Restriction Requirement.

With respect to the restriction requirement, the Examiner requires Applicants to elect one of five (5) inventions allegedly disclosed in the above application.

Group I, claims 1-9 and 11 drawn to polynucleotides, polypeptides, vectors, and host cells.

Group II, claim 10, drawn to an antibody.

Group III, claims 12-13, drawn to a method of determining whether a substance is an activator or an inhibitor.

Group IV, claim 14 drawn to a pharmaceutical composition comprising activator/inhibitor.

Group V, claim 15, drawn to a method of treating macular degeneration.

Restriction of claims 1-9, 11 (Group I) and 10 (Group II) under 35 U.S.C. 120 is respectfully traversed. It is respectfully submitted that a search of the Group I claims (drawn to, *inter alia*, polynucleotides and polypeptides would, of necessity include a search of the Group II claim (drawn to the antibodies). Likewise, a search of the Group III claims (claim 12 and 13- drawn to a method of determining whether a substance is an activator or an inhibitor) would, of necessity, include a search of the Group IV claim (drawn to a pharmaceutical composition.

As such, no savings of PTO resources will be achieved by enforcing the restriction requirement presently asserted. Accordingly, reconsideration and withdrawal of the requirement for restriction and/or regrouping of the claims, e.g., by combining Groups I and II and Groups III and IV is respectfully requested. In order to be fully responsive, Applicants elect the invention defined by the Group I claims (i.e., claims 1-9 and 11) without prejudice to the prosecution of the non-elected claims in a related patent application.


Applicants retain the right to petition from the restriction requirement under 37 C.F.R. §1.144. Favorable reconsideration of the Restriction requirement is respectfully requested.

It is believed that the claims are in a condition for allowance and a notice to that effect is earnestly solicited.

If the Examiner believes that a telephone conference would be of value, he is requested to call the undersigned counsel at the number listed below.

Any additional fees required in connection with this submission may be taken from Merck Deposit Account No. 13-2755.

Respectfully submitted,

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